While returning by taxicab from Juarez, Mexico, to El Paso, Texas, on 6 January 1960, Sara Harb Quiroz was stopped for questioning by an immigration-service agent. Quiroz was not a newcomer to the United States. She had acquired permanent U.S. residency in July 1954, at the age of twenty, and lived in El Paso where she worked as a domestic. We do not know why she traveled to Juarez on that particular occasion. But her parents and her nine-year-old daughter lived there. Other familial, economic, and social ties also drew the residents of El Paso to Juarez.

Documentation that explains why Quiroz was stopped no longer exists. But Albert Armendariz, the attorney who handled her case, believes she was stopped because of her appearance. “Based on looks. Based on the way she dressed. The way she acted. The way she talked.” In the eyes of the immigration inspector who stopped her, Quiroz seemed to be a lesbian. Until as recently as 1990, lesbian immigrants were excludable and deportable from the United States.

The case of Quiroz provides us with a window onto immigration-service efforts to identify and exclude foreign-born women who were believed to be lesbians. Some scholars date lesbian and gay exclusion from 1917, when “constitutional psychopathic inferiors,” including those with “abnormal sexual instincts,” became excludable. However, the most extensive records about immigration-service efforts to police the border against lesbians and gay men date from after the passage of the 1952 McCarran-Walter Act. In anticipation of the Act, the Senate Committee of the Judiciary had recommended in 1950 that “classes of mental defectives [who are excludable] should be enlarged to include homosexuals.
and other sex perverts.” However, the final wording of the McCarran-Walter Act did not explicitly mention homosexuals. Instead, homosexual exclusion became rolled into the provision that barred entry by psychopathic personalities. A Senate report explained:

The Public Health Service has advised that the provision for the exclusion of aliens afflicted with psychopathic personality or a mental defect... is sufficiently broad to provide for the exclusion of homosexuals and sex perverts. This change in nomenclature is not to be constructed in any way as modifying the intent to exclude all aliens who are sexual deviants.

In 1965 lesbian and gay exclusion was recodified, this time under a provision barring entry by “sexual deviates.”

To date, only cases involving men who were alleged by the Immigration and Naturalization Service to be gay have received substantive scholarly analysis. Little is known about the experiences of women. By providing information about Quiroz’s case, which is the only documented case involving a woman that has been uncovered to date, I narrate the history of lesbian and gay immigration exclusion in a way that centers, rather than subsumes, specifically female experiences. In addition, Quiroz’s case raises questions about the complexities of mapping histories of immigrant, refugee, and transnational women while using sexual categories that substantially derive their meanings from metropolitan centers.

That Quiroz encountered difficulties when entering at El Paso because an agent suspected that she was a lesbian clearly demonstrates that sexuality functioned as a “dense transfer point for relations of power” at the border. But in analyzing her case, I resist making efforts to determine whether she was a lesbian, since such efforts participate in power relations that recirculate and naturalize dominant cultural notions of sexual “types.” Instead, my approach to Quiroz’s case focuses on problematizing how mainstream institutions, including the INS, remain invested in constructing fixed boundaries around what homosexuality “is.” Such boundary marking involves operations by which mainstream institutions empower and legitimize themselves, while producing diverse minoritized populations.

In addition to using Quiroz’s case to explore U.S. immigration-service constructions of homosexuality, this chapter analyzes two related issues. First, I examine how the demand for sexual confession structures immigration monitoring. Second, I argue that immigration exclusions, including those directed at lesbians and gay men, are multiply constructed...
through overlapping discursive structures, and, therefore, the repeal of a particular exclusion depends on either undoing or rearticulating the various discourses and practices that sustain it.

"Her Hair Was Cut Shorter Than Some Women's": Constructing Lesbianism

According to Foucault, discourses actually construct the very sexualities around which policing is then organized. This certainly proves to be the case when we examine how immigrants came to be designated as excludable on the basis of homosexuality. Since there is no easy way to differentiate lesbians and gay men from heterosexuals, what led certain people to be singled out? On looking through case histories, it appears that immigrants came to INS attention as possible lesbians or gay men on the basis of checkpoints that were set up within the immigration process. These checkpoints served as particularly dense points where dominant institutions constructed (and individuals contested) the possible meanings of lesbian or gay identity and who should be included within these categories.

In thinking through the operation of these checkpoints, we must avoid two common and related mistakes. First, we should not imagine that coherent, predefined lesbian or gay identities always existed among immigrant applicants, and that the checkpoints simply captured these preformed "queer" subjects. To frame the issue in this way is to miss the myriad ways that these checkpoints often regulated the terms by which formation of identity occurs.10

Second, and conversely, we have to conceptualize lesbian and gay identities as being never reducible to these checkpoints. Though the checkpoints were dense power points in the dominant culture's production and policing of homosexuality, not all (potential) lesbian/gay subjects were equally affected. This is because lesbian and gay identities are also inflected by race, class, gender, cultural, and religious features that defy the possibility that there can be any uniform queer identity; equally, the checkpoints themselves reflected some degree of bias, such that they captured males more than females, and Latin Americans and Europeans more than Asians. Consequently, in looking at who was likely to become ensnared by these checkpoints, we should never imagine that this was the totality of the kinds of lesbian, gay, or "queer" identities that were passing into the United States.11

One of the richest sources of information about these immigration checkpoints comes from court records. Perhaps not surprisingly, almost
all of the court cases that have been reconstructed concern men. Very striking is the number of men who ended up being targeted by the INS because of criminal convictions related to sexual activity. Writing about German-born Horst Nemetz, who had no criminal record connected to his sexual activities with men, Shannon Minter describes the extent to which male-male sexual practices remain heavily criminalized:

his denial of public activity [for which he could have been convicted] means that he never made love on a beach, in a car, in a park, or in any of the other quasi-public places in which heterosexual couples occasionally engage in sexual relations. His denial of ‘recruiting’ means that he never sexually propositioned a man in a bar, at a party, on the street, or anywhere outside his home. His denial of ever being arrested or questioned by the police means either that he was fortunate, or that he avoided gay bars, gay bathhouses, gay cruising areas in parks and bathrooms, and other places that gay men informally gather and socialize. It also means he never had the misfortune of expressing sexual interest to an undercover police officer posing as a gay man.12

Court cases confirm that significant numbers of immigrant men came to INS attention on the basis of sexual criminalization.

But given that lesbian sexual activity is not usually as heavily policed, how can we map lesbians onto this history of immigration exclusion? Less policing does not mean that lesbian sexuality is more socially acceptable than gay male sexuality. However, disbelief that women can have sex without the presence of a male penis, and the ways that gender, in conjunction with race and class, has differentially shaped the acquisition and formation of spaces where women could come together to have sex, means that lesbian sexuality has not been scrutinized and policed in the same ways as gay male sexuality. The result was that INS criminal record checks were more likely to affect men, rather than women, who engaged in same-sex activities.

Were lesbians therefore relatively unaffected by the historic practices of homosexual exclusion? That is one possibility. A second possibility is that indicators other than criminal record checks were used to identify women who might be lesbians. Given the dearth of known lesbian exclusion cases, it is difficult to know what these indicators were.13 The Quiroz case provides one (possibly unrepresentative) example.14

As noted above, the lawyer who handled Quiroz’s case believes she was stopped because she looked, spoke, and acted “like a lesbian.” Quiroz was also unlucky enough to encounter an immigration inspector who
had undertaken a personal campaign to identify and expel women who he believed were "sexual deviates":

There was this fellow who was at the International Bridge. . . . He had a thing for people, especially women . . . who were lesbian, or in his mind were deviates, and met the requirements of the statute [for exclusion]. . . . They would go to Mexico on a visit, and on the way back he would send them to secondary [inspection] where he would determine they were ineligible to enter. This officer was very, very good at making people admit that they were sexual deviates.15

The importance of appearance is confirmed by testimony that was given to the INS by Quiroz's employer, to the effect that "the respondent usually wore trousers and a shirt when she came to work and that her hair was cut shorter than some women's."16

The use of visual appearance to monitor the border against possible entry by lesbians connects to a complex history. A 1952 Public Health Service report to Congress mentioned visual appearance as one possible index of homosexuality:

In some instances considerable difficulty may be encountered in substantiating a diagnosis of homosexuality or sexual perversion. In other instances, where the action or behavior of the person is more obvious, as might be noted in the manner of dress (so called transvestism [sic] or fetishism), the condition may be more easily substantiated.17

This passage suggests that monitoring based on visual appearance operated around the notion of gender inversion—that is, homosexuals could be visually identified by the fact that gay men looked effeminate or lesbians looked masculine.18 The PHS formulation connects to a broader cultural history of conceptualizing homosexuality as a problem of one gender being trapped in the other gender's body. Linked to that conceptualization was a range of endeavors to scientifically delineate, in a measurable and absolute way, the difference between homosexual and heterosexual bodies. Jennifer Terry has documented the activities of the Committee for the Study of Sex Variants, active in New York City in the 1930s and 1940s. Members of the committee included "psychiatrists, gynecologists, obstetricians, surgeons, radiologists, neurologists, as well as clinical psychologists, an urban sociologist, a criminal anthropologist, and a former Commissioner of the New York City Department of Corrections."19 This truly impressive array of professionals, scientists, and academics, connected through their efforts to delineate how the homosexual
was distinct from the heterosexual, conducted its research under the assumption that “the female sex variant would exhibit traits of the opposite sex. In other words, she would invert her proper gender role.” Under this guiding assumption,

Pathologists looked at skin complexion, fat distribution, coarseness of hair, the condition of the teeth, and commented on the overall facial and bodily structure of each subject. Radiologists took x-rays to determine cranial densities of the skull and “carrying angles” of the pelvis in order to identify anomalous gender characteristics. A dense skull was presumed to be masculine. “Graceful” and “delicate” pelvic bones were feminine.

Endocrinologists measured hormonal levels. . . . Sketches of genitals and breasts were drawn in order to document particular characteristics of sex variance. . . . In analyzing the thirty pages of graphic sketches of breasts and genitals, Dr. Dickinson reported on the general genital differences recognizable in the female sex variant population. He identified ten characteristics which he argued set the sex variant apart from “normal women.”

These and other studies were formed around, and helped to keep alive, the notion that lesbians were visibly different from heterosexuals, that lesbian difference had a biological basis, and that lesbianism and heterosexuality were opposites. Thus, it was not surprising that immigration officers tried to identify immigrants who might be lesbians by using the index of gender-inverted appearance. Gay men were similarly sought.

The notion that lesbian and gay immigrants could be identified on the basis of visible difference marks out an area where homophobia and racism share important commonalities. For example, Siobhan Somerville argues that “the structures and methodologies that drove dominant ideologies of race also fueled the pursuit of knowledge about the homosexual body.” According to Somerville, comparative anatomy, which was a key methodology of nineteenth-century scientific racism, also provided sexologists with “a ready-made set of procedures and assumptions with which to scan the body visually for discrete markers of [lesbian] difference.” Scientific racists particularly focused on the sexual anatomy of African females as a means to establish racial difference; equally, sexologists focused on sexual anatomy, and “one of the most consistent medical characterizations of the anatomy of both African American women and lesbians was the myth of an unusually large clitoris.” Finally, anxious efforts at social engineering coalesced around the bodies of the mulatto and the homosexual, who were figured as dangerously “mixed.”
Looking Like a Lesbian 83

While these overlaps reveal significant connections between homophobia and racism, based on economies and epistemologies of visibility, there are also important differences. Nice Rodriguez has described altering her sexuality- and gender-appearance so as to pass official scrutiny during her migration from the Philippines to Canada. Her account resonates with the experiences of U.S.-bound immigrants:

On the day of her interview [for a visa at the embassy] she wore a tailored suit but she looked like a man and knew she did not stand a chance.

They did not want masculine women in that underpopulated land. They needed babymakers. . . . Her wife got mascara and lipstick and made her look like a babymaker. During her interview with the consular officer she looked ovulating and fertile so she passed it.

Canada had strict immigration laws, but even bugs could sift through a fine mosquito net.23

This account captures the process of “straightening up” that many lesbians undertake when they expect to deal with immigration officials. Straightening up includes practices like growing one’s hair and nails, buying a dress, accessorizing, and donning makeup. Clearly there is privilege involved in the fact that many visual markers of lesbianism—unlike many visual markers that are conventionally associated with race or gender24—can usually be altered or toned down, so as to pass homophobic border guards. But at the same time, the fact that one has to straighten up so as to avoid a penalty serves as a reminder that lesbianism is a difference. Consequently, Rodriguez suggests that her self-presentation as an ovulating and fertile woman wearing lipstick and mascara did not erase her lesbian difference but instead confirmed the “bug”-like status of lesbians within the immigration system. Monitoring the border on the basis of visual appearance does lend itself to lesbian and gay male subversion, yet at the same time it marks out an area where the identity the INS is trying to contain and expel is also reestablished and reinforced.

The experiences of women of color like Quiroz further complicate analysis of visually based border monitoring. The visual, or that which gets seen, is driven by and redeployed particular cultural knowledges and blindnesses.25 Though the inspector who stopped Quiroz for questioning saw something different about her, there are many questions we need to ask. Was there really anything different about Quiroz to see? Was the difference he claimed to see really a lesbian difference, or was it another kind of difference that simply became named as “lesbian” through a combination of procedures and expediency? What cultural knowledges
and blindnesses organized this inspector’s regime of seeing, such that he picked out Quiroz for investigation? What are the connections between the inspector’s suspicion that Quiroz was a “sexual deviate” and the long U.S. history of viewing and treating the bodies of women of color as sexually other? The use of visual judgment to monitor the border involves levels of complexity that have yet to be unraveled, where immigrant women of color with diverse sexualities are involved.

In the context of the El Paso–Juarez border where Quiroz was stopped, the regimes through which Mexican immigrants get visually evaluated are further complicated by the historical processes through which that border was imposed. Timothy Dunn explains that “for many decades, the [U.S.–Mexico] border was a tenuous social construct, established and maintained by force.”26 The border, which derived from the Texas Revolution of 1836, the Mexican War of 1846–48, and the Gadsden Purchase of 1853, was

in large part either ignored or actively contested by Mexicanos in the region . . . because it was imposed on them and it disrupted their lives. . . . The full pacification of the region required some 70 years, and involved the prominent use of a variety of coercive measures both by the state and by Anglo groups.27

The Border Patrol, created by the Immigration Act of 1924, became a key state institution through which the border was maintained. Border enforcement efforts have continually legitimated the subordination of Mexican-origin peoples in the region, regardless of whether they were citizens, residents, or immigrants. The scrutiny Quiroz received from immigration-service officials derived from and further extended this history.28 Immigration-service techniques, which involved atomizing and evaluating her appearance, documents, and speech, also echoed and extended the historical processes whereby Latina bodies became racialized and sexualized in the context of imposing the U.S.–Mexico border. As Yvonne Yarbro-Bejarano reminds us, it is not only “our attitudes about our bodies, but our very bodies themselves,” that are constructed within social relations, including the relations that Mexican immigrant women negotiate at U.S. southern borders.29

**Multiple Checkpoints**

Ways that lesbians (and gay men) might come to INS attention were not restricted to the visible nor to the existence of police records. Individuals also became suspected of homosexuality during required premigration
medical inspections; through the timing and location of their arrival (e.g., people coming into San Francisco just before the lesbian, gay, bisexual, transgender parade); because of information given to the INS by third parties; based on the contents of their suitcases; and as a result of information contained in the forms that all immigrants must complete. Immigration forms included questions about whether one was of good moral character or a sexual deviate or a psychopathic personality, and they also asked the applicant to list all affiliations. Anyone who participated in a lesbian or gay organization potentially had to list that fact. One could, of course, lie or omit information when completing the forms, but only at the risk of a substantial penalty if the INS found out. No doubt there were other ways that lesbians and gay men came to INS attention, but these ways have yet to be uncovered. The impact of these methods for identifying women who might be lesbians was undoubtedly differentiated by race, nationality, class, and other features.

Techniques of Exclusion and Deportation

Once immigrants came to INS attention as possible lesbians, the means used to officially exclude them was to issue them a Class A medical exclusion certificate. This practice no doubt inspired Richard Green’s observation that “American immigration policy regarding homosexuals has been a marriage of one government bureaucracy with another: the Immigration and Naturalization Service (INS) and the Public Health Service (PHS).”

It is tempting to assume that use of a medical exclusion certification process signals that medical fears motivated the exclusionary treatment of lesbians and gays. But such a reading does not take into account the full complexity of how exclusion operated. Exclusion never only involved a simple “failure” of medical knowledge. And although medicine is one key discourse through which the homosexual has been constructed as a threatening type, it is not the only such discourse. Robert Poznanski’s analysis notes that fears about “morality, subversion, or destitution may have motivated Congress” to enact lesbian and gay exclusion. A plurality of discourses and institutional practices, not just one, underpinned exclusion. Furthermore, these discourses and practices were neither necessarily rational nor commensurate with one another.

The workings of exclusion must therefore be grasped not at the level of lack or plenitude of knowledge but rather at the level of how homophobia is strategically organized and deployed within institutional circuits of power. As David Halperin writes, “Homophobic discourses are
not reducible to a set of statements with a specifiable truth-content that can be rationally tested. Rather, homophobic discourses function as part of more general and systemic strategies of delegitimation. Consequently, the practice of issuing Class A medical exclusion certificates to immigrants who were judged lesbian or gay reflected not just that medicine was a key discourse through which lesbians and gay men were constructed as threatening "Others" but also that medical practices provided a means through which a larger discourse of homophobia could be mobilized, channeled, and legitimated.36

The medical exclusion certification process connected to the drive for rationalized efficiency. Its use required few additional resources, since the PHS already inspected the physical and mental health of aspiring immigrants and had a system whereby "unfit" people could be certified for exclusion.37 It was easy to add one more group to the list of those already weeded out.38 The medical exclusion certification process further fit into the rationality that stressed "scientific" management, since it enabled deployment of disparate homophobic practices under the sign of "medical" intervention.

Issuance of medical exclusion certificates to suspected lesbian and gay immigrants was also congruent with the operations of other government apparatuses. During the massive World War II troop mobilizations, the handling of homosexuality in the ranks underwent a shift from criminalization to psychiatrization. Dishonorably discharging homosexuals for mental illness, rather than charging them with a crime, was deemed preferable on various grounds. Mental illness discharges eliminated time-consuming trials and costly imprisonment; they "made it easier for the military to extend its anti-homosexual apparatus to women"; and the process could be conducted in a discretionary manner, without strict evidentiary requirements.39

After World War II these military policies toward homosexuality "served as a model for senators who, in 1950, launched the most aggressive attack on homosexual employees that had ever taken place in the federal government."40 Under Eisenhower, the attack widened further as lesbians and gays became constructed as threats to national security:41

the government's anti-homosexual policies and procedures, which had originated in the wartime military, expanded to include every agency and department of the federal government, and every private company or corporation with a government contract, such as railroad companies and aircraft plants. This affected the job security of more than
six million government workers and armed forces personnel. By the mid-1950s, similar policies had also gone into effect in state and local governments, extending the prohibition on employment of homosexuals to over twelve million workers. . . . Similar policies were adopted independently by some private companies, and even by such private organizations as the American Red Cross.42

At the same time, the American Psychiatric Association (APA), “building on the standardized nomenclature developed by the Army in 1945,” issued its first Diagnostic and Statistical Manual of Mental Disorders (DSM-I) in 1952. The manual “firmly established homosexuality as a sociopathic personality disorder.”43 This APA classification legitimated the PHS practice of issuing Class A medical exclusion certificates to immigrants who were thought to be lesbian or gay.44 Class A medical exclusion certification thus shared significant connections with military and employment apparatuses.

Foucault’s The History of Sexuality (Vol. 1) provides further specification of how the PHS certification system organized a circuit of homophobic discourses and practices. Within immigration monitoring, procedures were needed to ensure that “the will to knowledge regarding sex . . . caused the ritual of confession to function within the norms of scientific regularity.”45 In other words, although foreign-born peoples’ sexuality could be inquired into at various points within the process, there had to be a way to make the process seem legitimately scientific and to regularize what happened if information such as “I am a lesbian” became revealed.

Five procedures, through which these aims could be accomplished, are described by Foucault:

[first] a clinical codification of the inducement to speak. . . . [second] the postulate of a general and diffuse causality . . . that endowed sex with an inexhaustible and polymorphous causal power. The most discrete event in one’s sexual behavior . . . was deemed capable of entailing the most varied consequences throughout one’s existence. . . . [third] the principle of a latency intrinsic to sexuality . . . [that] made it possible to link the forcing of a difficult confession to scientific practice. . . . [fourth] through methods of interpretation. . . . [and lastly] through the medicalization of the effects of confession.46

The case of Quiroz offers us an opportunity to examine how these procedures operated together, around the Class A medical exclusion certification system, to create an integrated circuit of power, knowledge, and homophobic practices.
“Scientifically” Eliciting Sexual Confessions

The first feature of this discursive circuit involves the “clinical codification of the inducement to speak.” Inducement to speak conjoins neatly with the third feature, the assumption of a “principle of latency intrinsic to sexuality . . . [that] makes it possible to link the forcing of a difficult confession to scientific practice.”

A very basic “inducement to speak” is built into the immigration system, in that one’s ability to gain entry into the United States depends on willingness to respond to any and all questions of immigration officials. One risks a substantial penalty for lying or omitting information that the immigration service might consider pertinent to one’s application. This substantial inducement to speak is compounded during the experience of being held for secondary inspection, as happened to Quiroz when she attempted to reenter at El Paso. There are variations on how secondary inspection is conducted, but Mr. Armendariz offered one description of how intimidating the process can be:

When you go down to the bridge, these people [immigration officials] are kings. And they act like kings. They put them [i.e., people detained for secondary inspection] in a little room. And they keep them there for hours and don’t feed them. And one comes in and asks a few questions and then leaves them alone. Then another comes in: “We’re going to put you in the penitentiary for five years, and we’re waiting for them to pick you up and take you to jail. Unless you tell us the truth.” And then they end up transcribing what they [the detained] said. . . . In my 45 years, I have come across at least 1,000 people who insisted they did not say [what the INS statement says they said]. Under oath.

We do not know if this description reflects Quiroz’s experience. But at a hearing before a Special Inquiry Officer, she attempted to refute the statements that the INS obtained from her during questioning. The Special Inquiry Officer’s decision related that “the respondent testified in an attempt to impeach her statements (Exhibits 3 and 4). She said that the statements were not read to her and that she cannot read or speak English. She denied that she had ever been a lesbian and stated that she has a 9 year old daughter. She testified that she signed the statements because she was told that everything would be all right.” Quiroz thus tried to contest the speech that was attributed to her. This is important, because it was primarily on the basis of her speech that she was constructed.
as a lesbian. If the speech could be impeached, the “evidence” of homosexuality became severely undermined.\(^{50}\)

How the INS overturned Quiroz’s impeachment efforts is interesting, because of the connections it reveals between inducement to speak, the forcing of a sexual confession, and the use of “scientific practice” to legitimate the whole proceedings. The INS testimony read:

To rebut the respondent’s testimony impeaching the statements, the Government had the two immigration officers who took the statements testify as witnesses. Their testimony was that the statement was read to the respondent at the conclusion, that it was made voluntarily, that she was cooperative, and that her answers were responsive to the questions. Their testimony was also to the effect that there was comprehension between them and the respondent in their speaking with her in the Spanish language during the taking of the statement. In passing it is to be noted that Dr. Coleman [the PHS surgeon who signed the Class A medical exclusion certificate issued to Quiroz] during his testimony, stated that he was present during the taking of the statement (Exhibit 3) and that the respondent replied readily, was relaxed, cooperative, not under duress and did not show hesitancy or embarrassment.

The respondent’s attempt to impeach her sworn statements (Exhibits 3 and 4) must fail. Each statement recites at the end thereof that it was read to her. The first statement shows a material correction was made . . . and this was initialed by the respondent . . . I shall therefore consider these two statements [signed by Quiroz] as true and correct.\(^{51}\)

In essence, the INS argued that they followed proper procedures in the Quiroz case. These included correct administration of the immigration system, requisite adherence to legal doctrines concerning how evidence may be obtained, and validation by a medical authority.

But procedural propriety is not necessarily the key issue here. More significant, in light of Foucault’s description of how an economy of discourses becomes organized to generate confession about sexual practices and feelings, is that there are procedures, and they did work together to ensure that Quiroz provided explicit statements about her sexuality. It was INS adherence to proper procedures that led Quiroz to “confess” that she has had homosexual desires for at least a year, that she had homosexual relations on numerous occasions over this period of time with two women whom she named, that she had these relations both
in El Paso, Texas, and Juarez, Mexico, and that the relations were had with weekly frequency. She described in detail the manner in which these homosexual relations were performed . . . the respondent stated that she enjoyed the sexual relations more with women than with men, and that she had entered into such relations voluntarily.52

The very scientific and correct nature of the INS procedures operated as relations of force that induced a certain kind of speaking, or confessing, by this woman. It is difficult to believe that Quiroz would have freely volunteered this information to the INS, without being compelled to do so by the procedures. That INS procedures were scientific and proper, however, meant that their operation as relations designed to force sexual confessions become invisible. Consequently, Quiroz’s confession, but not the existence of procedures that compelled the confession, became the subject of adjudication in her case. Unfortunately for Quiroz, the alleged “perversity” of lesbians and gay men is often backed up by the claim that they “willingly” talk about their deviant sexual practices so as to “recruit” others into lives of depravity. The erasure of the induced nature of Quiroz’s speech subjected her to this derogatory construction, which reconfirmed the original contention of the government about her undesirability.53

A third feature of the economy of discourses, referred to by Foucault and evident in the Class A medical exclusion process, was:

the postulate of a general and diffuse causality . . . that endowed sex with an inexhaustible and polymorphous causal power. The most discrete event in one’s sexual behavior . . . was deemed capable of entailing the most varied consequences throughout one’s existence.54

In Quiroz’s case, this feature is perhaps clearest in the Board of Immigration Appeals (BIA) judgment that

her relations with several women on many occasions demonstrated a pattern of behavior which was antisocial, irresponsible, lacking in social judgment and “without any true judgment of what the results may be” (Doctor Schlenker’s testimony, p. 33). To use the Public Health Service parlance, she has manifested a disorder of the personality which has brought her into conflict with “the prevailing culture.”55

The mere fact that Quiroz testified to having sexual relations with two women was deemed evidence that she was irresponsible, antisocial, and personality disordered. The principle of “diffuse causality” is an ever-present resource on which the dominant culture can draw to justify penalizing lesbian and gay existence.
The fourth and fifth features of the economy, which visibly worked through the Class A medical exclusion certificate system, were “methods of interpretation . . . [and] medicalization of the effects of confession.”56 In immigration exclusion cases, issues of interpretation play out at every stage of the process. For example, two key interpretive issues (along with many lesser ones) that emerged in the course of Quiroz’s extended court battle to overturn the deportation order against her were: was she a lesbian, and, if so, did that mean she was necessarily a psychopathic personality? (After all, exclusion was based on a certificate issued to her for being a psychopathic personality, not for lesbianism.) The law became the key site within which these interpretive battles were fought—yet medical and psychiatric interpretation also had a role within this process.

As we have seen, Quiroz’s first line of defense in the preliminary case was to challenge the manner in which her statements were obtained and used as proof of homosexuality. She also bluntly denied that she was a homosexual and invoked the fact that she had a daughter as clear evidence of her sexual relations with men. Invoking her daughter played into hegemonic constructions of female heterosexuality. Quiroz’s second line of defense drew on medical and psychiatric testimony to suggest that being a homosexual was not necessarily equivalent to being a psychopathic personality.

However, the government found that Quiroz’s statements to the INS were unimpeachable. They thus found her to be a homosexual, even if she had a daughter. Regarding the second issue, the government acknowledged that there was a possible gap between homosexuality and psychopathic personality. They even included the testimony of one of the PHS surgeons who had signed Quiroz’s exclusion certificate that “there are persons who are sexual deviates who are not afflicted with psychopathic personality . . . but [the PHS doctor] is required to certify all homosexuals as psychopathic personalities regardless as to how he privately might feel.”57 Nonetheless, the INS ruled:

The history of the enactment of Section 212(a)(4) of the Immigration and Nationality Act shows that Congress intended that homosexuals and other sex perverts were to be excluded from admission to the United States and that rather than make a separate class of homosexuals and sex perverts within the excluding provisions, these individuals are to be included within the category of individuals afflicted with psychopathic personality. . . . Notwithstanding the medical opinion of both physician witnesses that a person who is homosexual is not per se afflicted with psychopathic personality and that other character
traits must also be considered, Congress has intended that persons who are homosexuals are to be considered as being afflicted with psychopathic personality. It is on the basis of this clear intent of Congress that the United States Public Health Service, in its manual for the examination of aliens, classifies homosexuals and sexual deviates as being afflicted with psychopathic personality.58

Thus, within a legal framework, congressional intent to exclude lesbians and gay men—grounded in Congress's plenary power over immigration, which is not bound by common legal and procedural standards—was affirmed.59 The order deporting Quiroz stood.

When the case was appealed to the BIA, Quiroz essentially employed the same two lines of defense. But the BIA responded even more harshly than had the Special Inquiry Officer. Regarding the question of whether the evidence established that she was a homosexual, members of the BIA affirmed that Quiroz's original statements were unimpeachable. The BIA also addressed the fact that Quiroz had a daughter. The ruling related the circumstances behind the birth of the daughter: "When she was around sixteen years of age, respondent lived for about two months with a man who then deserted her, apparently when she became pregnant."60 The Board opined that "that affair of ten years ago does not establish that she is not now a homosexual" and, furthermore, reconstructed that affair as a possible reason for her (to them, confirmed) present homosexuality. "There may be a causal connection between this earlier incident and her present problems." Quiroz's efforts to reconstruct herself within a heterosexual framework, through reference to the birth of her daughter, thus backfired, since the BIA used these same facts to advance the common homophobic proposition that unfortunate experiences with a man are the reason why a woman turns to lesbianism.61 This only strengthened their case.

Regarding the possible gap between homosexuality and psychopathic personality, the BIA tartly ruled:

Each psychiatrist or psychoanalyst may construe the term "homosexual" and "psychopathic personality" according to his own perspective, but within the Public Health Service and the Immigration Service, in order to achieve a degree of uniformity and fairness in the interpretation and administration of this law, we are bound to a more rigid system of classification.62

Therefore, within this interpretive struggle, the exigencies of uniform administration took precedence over psychiatric opinion. Not only did ad-
ministrative need require that homosexuality be treated as equivalent to psychopathic personality; furthermore, the BIA ruled, the two categories actually came together in the person of Quiroz herself. Because Quiroz had engaged in sexual relations with women, “it is our opinion that the respondent falls within the class of [psychopathic] persons defined by the two doctors who testified in this case.” Not surprisingly, the BIA concluded that “since Congress unquestionably intended to include homosexuals within the class of aliens afflicted with psychopathic personality, no finding is possible in this case except that she is subject to deportation.”63

At the district court level, to which Quiroz next appealed, her counsel no longer tried to refute the finding that she was a homosexual. Instead, he concentrated on trying to undo the contention that a homosexual is necessarily a psychopathic personality. But the district court merely affirmed the legal overlap between the two, ruling that “since the record shows the plaintiff is a homosexual she is therefore a person of psychopathic personality.”64

The fifth circuit brief for Quiroz again hinged on the argument that “the court erred in concluding as a matter of law that since the record shows that plaintiff is a homosexual, she is, therefore, a person of psychopathic personality.”65 Various arguments were marshaled to support this contention. The government’s counterbrief acknowledged that Congress had not defined the term “psychopathic personality” and that there were no cases on which to rely for precedent. Nonetheless, Congress had (and has) the right to decide who shall be excluded from immigrating, and government documents suggested that Congress intended to exclude lesbians and gay men. Quiroz was sent yet another letter that ordered her deportation.

Ultimately, Quiroz’s lawyer was unable to drive a wedge between the notion of equivalence between homosexuality and psychopathic personality, despite engaging in a prolonged interpretive battle within the courts. He was also unable to challenge the evidence that was used to construct her as homosexual.

Quiroz had one last card to play, however. On 23 June 1961 the Fifth Circuit Court ruled against her and ordered her deportation by 15 August 1961. On 2 August 1961 she married Edward Escudero and filed a motion to reopen her case. We will probably never know the circumstances surrounding this marriage. Was Quiroz a lesbian engaging in a sham marriage, with Escudero as either a willing participant or a dupe? Or did she enter into the marriage in good faith, perhaps trying to “go straight,” or even from honest feelings of love, attraction, and affection? Whatever the
circumstances, the motion filed on her behalf requested the right to re-open her case so as to

present evidence of her marriage and full rehabilitation, being new facts which touch upon the issue of deportability. . . . That since the order of deportation was entered herein, your applicant has married Edward Escudero, who joins this application, and that she is prepared to prove that she is, at this time, a normal individual and no longer a psychopathic personality.56

Given the timing of the marriage, it certainly seems to constitute an effort to take the charges brought against her and use them to craft a response that satisfied dominant cultural terms regarding women and sexuality. The argument that her marriage offered evidence of “rehabilitation” and of becoming “a normal individual” fits neatly into mainstream assumptions that homosexuality can be “cured” (and, even better, that lesbianism can be cured by finding the right man).

It was a brave effort. But marriage, too, failed to prevent Quiroz’s deportation. This is because, as the INS noted in their “Brief in Opposition,”

According to counsel’s motion the new facts to be proven at the proposed reopening will show that the respondent has married since the order of deportation was entered, is now a normal individual and no longer a psychopathic personality. Even if all this should be proven, no application is apparent to the matter of the respondent’s deportability, which is based on her condition at entry January 6, 1960 and not on circumstances which may have arisen since that time.57

Both sides thus tried to play on the temporal ambiguity of when one might be said to have “become” homosexual. Quiroz initially tried to deny her homosexuality; then she presented the birth of her daughter as evidence that she had had sexual relations with a man sometime in the past (which might cast doubt on present allegations of homosexuality); then, through marriage, she tried to construct homosexuality as a prior condition that was now “cured.” The INS, for its part, refuted her initial denials. The BIA hearing then suggested that the circumstances surrounding the birth of her daughter may have “caused” her lesbianism. Finally, they invoked their legal power by which lesbianism was defined as significant at time of entry, regardless of any changes later. In the interpretive battle over the construction and penalizing of lesbianism, the INS eventually won.

We will never know with absolute certainty whether Quiroz was a les-
bian. After all, lesbianism has no clear, predefined content that allows us to draw a marker between it and other forms of sexuality. But her case shows how the immigration service, in conjunction with larger circuits of power and knowledge, established the boundaries of who and what counted as a lesbian and then confined Quiroz within that definition. The effects of Quiroz's battle and its resolution were indeed "medicalized" (the fifth feature mentioned by Foucault): Quiroz's Class A medical exclusion certificate stood, and she was deported. Her deportation underscored how U.S. national identity and security were produced through the symbolic and, where possible, literal expulsion of women deemed to be lesbians—especially when these women were working-class Mexicans.

Quiroz's refusal of the lesbian label was certainly intended to avoid deportation. But other reasons may also have motivated her. Perhaps she did not consider herself a lesbian, despite reporting sexual relations with women. Anthropologists such as Joseph Carrier have documented how the construction of male homosexuality in Mexico differs from dominant U.S. constructions, such that men who have sexual relations with other men are not necessarily stigmatized as homosexual.68 Carrier's work raises questions about how lesbian identity was constructed in the late 1950s and early 1960s in Mexican and U.S. communities that were familiar to Quiroz. It also raises questions about how Quiroz, who was situated at the intersection of several cultures, communities, and traditions, negotiated her sexual identity, which may have changed over time.69 Though she reported sexual relations with women, did this make her a lesbian? If so, according to whose definition?

Even if Quiroz considered herself a lesbian, claiming the label was undoubtedly complicated by being a Mexican immigrant woman living in a U.S. border city. Oliva Espín notes that immigrant lesbians often remain situated within the contradictory space "between the racism of the dominant society and the sexist and heterosexist expectations of [their] own community."70 Under those circumstances female sexuality becomes a site through which cultural contestations are played out. Thus, Cherrie Moraga, among others, eloquently documents how declaring oneself a lesbian leaves Latinas vulnerable to the charge of vendida, or race traitor.71 Yolanda Leyva further explains that silence, rather than public admission, enables many Latina lesbians to remain connected to family and community. "Latina lesbians have survived because of that silence, and the protection it has provided, despite the many limits and compromises it has imposed."72 The INS charge that Quiroz was a lesbian, whether true
or not, shattered the protective silence and jeopardized her access to family and community resources. The lesbian label may also have followed her to Mexico, through the gossip of other returnees, or when she was asked to explain her deportation to family and friends. Resettlement becomes very difficult under those circumstances. Quiroz’s efforts to refuse the label of lesbian must be framed, therefore, within the context of multiple jeopardies and competing pressures that she faced as an immigrant woman living in a U.S. border city with an anti-Mexican history, as well as the incommensurabilities between different cultural practices of constructing and naming sexual identities.

For these reasons, and in the absence of documents other than official ones, I have resisted offering a judgment about whether Quiroz was a lesbian. My resistance is intended to foreground the dangers of reading immigrant women’s sexualities within dominant U.S. frameworks—even when the reading is intended to assist in the formation of a counterhistory—because unqualified use of the term “lesbian” may arrogate immigrant women’s experiences to U.S.-based paradigms that do not allow for theorization of the ways that immigrant status, allied with experiences of racism, cultural difference, and class exploitation, complicate sexual identities. As Quiroz’s case shows, this arrogation may occur in conjunction with systemic violence that is imposed by the state (in the form of deportation). But it is important to emphasize that lesbians do cross borders. Immigrant lesbian lives remain little documented or understood, however.73

“A Private Matter That Had No Relevance to Immigration”: Repeal of Exclusion

In 1990 Congress repealed immigration provisions that excluded lesbians and gay men. A congressional report stated that “In order to make it clear that the U.S. does not view personal decisions about sexual orientation as a danger to other people in our society, the bill repeals the ‘sexual deviation’ exclusion ground [in immigration law].” The “end” of exclusion based on sexual orientation has received little attention in studies of immigration. However, a congressional report demonstrates one way that this policy change has been framed and explained:

The law also needs to be updated in its treatment of sexual orientation. The term “sexual deviation” (INA 212(a)(4)) was included with the other mental health exclusion grounds expressly for the purpose of excluding homosexuals. Not only is this provision out of step with
current notions of privacy and personal dignity, it is also inconsistent with contemporary psychiatric theories. . . . To put an end to this unfairness, Congress must repeal the “sexual deviation” ground [for immigration exclusion].75

Tempting as it is to attribute the repeal of exclusion as an outgrowth of “current notions of privacy and personal dignity . . . [and] contemporary psychiatric theories,” this explanation is partial at best. As discussed above, exclusion never hinged solely on medical or psychiatric knowledge; rather, that knowledge was deployed as part of a larger strategic formation of homophobic discourses and practices. Alterations in the composition of that knowledge were not sufficient to generate repeal, unless alterations also occurred in the discursive economy as a whole.

One of the most significant alterations to the discursive economy that organized exclusion occurred more than a decade before the 1990 change. In 1979 the Surgeon General directed the PHS to stop automatically issuing Class A medical exclusion certificates solely on the basis of homosexuality. One factor bearing on the Surgeon General’s decision was the fact that in 1973 trustees of the American Psychiatric Association “voted to remove homosexuality per se from the categories of mental disorder. In the next year, a referendum upholding the decision was passed by the full APA membership.”76 Until this APA action, homosexuality was listed as an illness; and even if its exact nature was disputed, the fact it was officially an illness meant that lesbians and gay men came under PHS purview. After 1974, however, in the absence of an official illness categorization, the PHS was arguably no longer responsible for lesbians or gay men (unless they had specific medical or mental conditions).77 Other factors, too, undoubtedly had a bearing on the Surgeon General’s decision.

When the Surgeon General declared that the PHS would no longer automatically issue Class A medical exclusion certificates to lesbians and gay men, he evoked a sharp response from John M. Harmon, Assistant Attorney General for the Department of Justice. In a memorandum to David M. Crosland, Acting Commissioner of the INS, Harmon excoriated the Surgeon General for his decision and suggested he had overstepped the bounds of his authority. “Congress clearly intended that homosexuality be included in the statutory phrase ‘mental defect or disease’ and the Surgeon General has no authority to determine that homosexuality is not a ‘mental defect or disease’ for the purpose of applying the [Immigration] Act,” stated the memo.78 Harmon ruled that the INS remained bound to exclude lesbians and gay men, even without PHS assistance.
In 1980 the INS announced how exclusion would operate:

If an alien made an “unsolicited, unambiguous admission of homosexuality” to an INS inspector or was identified as homosexual by a “third party who arrived at the same time,” the alleged homosexual would be subject to a secondary inspection. At that inspection, the person would be asked whether he or she was a homosexual. If the person answered “no,” entry would be permitted. If the person answered “yes,” a formal exclusionary hearing would follow. 79

In some respects, this approach to exclusion was not very different from before. Well before 1980, the INS relied on self-disclosure and identification by a third party (though not necessarily a party who arrived at the same time) to pick out immigrants who might be lesbians or gay men. Other identificatory practices, such as criminal record checks and inclusion of key questions on immigration application forms, operated both pre- and post-1980. Perhaps the main difference was simply the elimination of one step in the exclusion process: whereas pre-1980, a suspected lesbian or gay immigrant was sent to the PHS for certification before exclusion, after 1980, the INS skipped the certification process and excluded directly.

The growing questions and criticisms directed toward lesbian and gay exclusion in the 1980s therefore reflect not the implementation of new, egregious forms of border control but the loss of the certification process. Various practices were suddenly unbound from the legitimation offered by a medical exclusion certificate, in a way that made them available for further questioning and contestation. In addition, new political and social formations, including lesbian/gay legal defense and political advocacy groups, had also emerged, and they directly contested practices like exclusion. During the 1980s

the question of how to identify lesbians and gay men had become an increasingly vexed one. . . . The INS’s stated policy of relying on voluntary admission drew an openly arbitrary line between lesbians and gay men who, perhaps unaware of the consequences, announced their homosexuality to INS inspectors and those who did not. The enforcement of the procedure was, as even the State Department and some INS officials admitted, uneven and arbitrary. . . . the legal uncertainties [arising from contradictory court rulings in the 1980s] and administrative inconsistencies surrounding the exclusion had made an already controversial provision increasingly difficult to justify. 80
Concerns about discrimination against lesbians and gay men was voiced. Some public officials suggested that “a person’s sexual orientation should be a private matter that had no relevance to immigration.”

The expression of these problematizations continued unchecked, since neither the medical certification system remained nor did an equally effective new organization of homophobic discourses emerge. The diversity of problematizations meant that a wide spectrum of groups could find something to support in proposals to repeal the exclusion. “Those who supported [the exclusion’s] elimination spanned a broad ideological range, including the Carter, Reagan, and Bush administrations, the Select Commission on Immigration and Refugee Policy, the American Psychiatric Association, and numerous civil rights organizations.” In 1990, Congress repealed immigration exclusion based on sexual deviation.

**New Possibilities, New Struggles**

Since 1990 lesbians and gay men have no longer been automatically debarred from emigrating to the United States. The change is significant. But the meanings of this change must be carefully evaluated. After all, although lesbians and gay men are no longer excluded, judicial interpretations of aspects of immigration law remain “heavily influenced by the categoric exclusion of lesbians and gay men under the 1952 Act” and by a heterosexual norm. Lesbians and gay men are still likely to be excluded for lacking good moral character. They also remain unable to use long-term relationships with U.S. citizens or residents as a basis for gaining their own U.S. residency (a right that is available to male/female couples). Once within the United States, lesbians and gay men must continually contend with homophobia.

These are some of the effects of homosexuality that continue to make immigration difficult, even after 1990. To assess how homosexuality is likely to remain salient in immigration in the foreseeable future, we would need to examine the operation of major discourses and practices that are critical to the current production of homosexuality. We would also need to analyze how lesbian and gay identities may be reproduced within new collectivities that are no longer delineated within clear lesbian or gay parameters. For example, HIV has become a significant issue in the administration of the immigration system. And HIV, as Katie King observes, is both altering the terrain of what counts as the gay/lesbian community and producing new collectivities that cannot be captured within a gay/straight model. In addition to the reconfiguration of identities caused by HIV/AIDS exclusions, the 1990 Act also established...
a new general category of exclusion based on mental or physical disorders. Although general in nature, this ground is linked carefully to behavior and potentially harmful activities... two requirements must be met if an alien is to be excluded because of a mental or physical disorder. The alien must be determined to have a mental or physical disorder and a history of behavior (or current behaviors associated with the disorder) that may pose a threat to the property or the safety of the alien or others... the standard is based on the behavior of the alien. 

The standard of “harmful activities” and behaviors has the potential to be unfairly applied to lesbians and gay men in particular, as well as to produce new minoritized collectivities that include but are not limited to lesbians and gay men.

Clearly, then, despite the 1990 changes, lesbian and gay identities continue to have various kinds of salience in immigration. Nonetheless, the Act is a key piece of legislation that makes new social justice strategies possible. Because the Act protects foreign-born lesbians, gay men, and “queers” from automatic exclusion, a national movement to secure spousal immigration privileges for same-sex couples, as well as novel ways of publicly linking struggles around homophobia, racism and anti-immigrant sentiment, have emerged. Before 1990 these political projects were greatly handicapped (if not virtually impossible), since foreign-born people who identified as lesbian, gay, or queer risked exclusion by announcing their presence, publicizing their struggles, or participating in organizing.

Repeal of exclusion based on sexual deviation is intelligible within a framework that is sensitive to the operations of power. Foucault writes:

power must be understood in the first instance as the multiplicity of force relations immanent in the sphere in which they operate and which constitute their own organization; as the processes which, through ceaseless struggles and confrontations, transforms, strengthens, or reverses them; as the support which these force relations find in one another, thus forming a chain or system, or on the contrary, the disjunctions and contradictions which isolate them from one another; and lastly, as the strategies in which they take effect, whose general design or institutional crystallization is embodied in the state apparatus, in the formulation of the law, in the various social hegemonies.

Lesbian and gay exclusion functioned until 1990 not because of its grounding in rational thought but because of its ability to weave together...
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a range of disparate, sometimes contradictory, and often clearly unreasonable homophobic discourses and practices into a "chain or system." This weaving-together found institutional crystallization in the Class A medical exclusion system, which was supported by "the state apparatus, in the formulation of the law, [and] in the various social hegemonies." At the same time, this formation generated its own "disjunctions and contradictions." Contradictions included the ways that the formation contributed to production of the very sexuality against which it claimed to guard the nation. Quiroz's case offers a valuable window onto the ways that border monitoring enabled the production of official immigration-service definitions of lesbianism, around which exclusions—that potentially affected not just self-identified lesbians but any woman who did not clearly conform to current heterosexual standard—were organized. Border monitoring, in turn, crucially depended on establishing procedures whereby immigrant sexual confessions could be mandated. Quiroz's case, and her strategies of resistance, also provide information about the ways that sexual monitoring of the border was gender differentiated, even though suspected lesbians and gay men were barred from entry under a shared provision. As the case makes clear, racial and class histories integrally structure how gender and sexual identities are produced, negotiated, oppositionally deployed, and sanctioned at the border. Quiroz's case also raises critical questions about how migrant women negotiate sexual identities and communities when the threat of state-sanctioned exclusion or deportation structures their options. Though an "end" to lesbian/gay exclusion in the broadest sense has not occurred, the transformation of conditions of struggle, and of relations between affected individuals and groups, is beyond question.